

(h) Leases granted or approved under this part on individually owned lands which provide for payment of rental direct to the owner or his representative shall contain the following provisions:

(1) In the event of the death of the owner during the term of this lease and while the leased premises are in trust or restricted status, all rentals remaining due or payable to the decedent or his representative under the provisions of the lease shall be paid to the official of the Bureau of Indian Affairs having jurisdiction over the leased premises.

(2) While the leased premises are in trust or restricted status, the Secretary may in his discretion suspend the direct rental payment provisions of this lease in which event the rentals shall be paid to the official of the Bureau of Indian Affairs having jurisdiction over the leased premises.

§ 162.605 Negotiation of leases.

(a) Leases of individually owned land or tribal land may be negotiated by those owners or their representatives who may execute leases pursuant to § 162.602 of this subpart.

(b) Where the owners of a majority interest, or their representatives, who may grant leases under § 162.602 of this subpart, have negotiated a lease satisfactory to the Secretary he may join in the execution of the lease and thereby commit the interests of those persons in whose behalf he is authorized to grant leases under § 162.601(a)(1), (2), (3), and (5) of this subpart.

(c) Where the Secretary may grant leases under § 162.601 of this subpart he may negotiate leases when in his judgment the fair annual rental can thus be obtained.

§ 162.606 Advertisement.

Except as otherwise provided in this part, prior to granting a lease or permit as authorized under § 162.601 of this subpart the Secretary shall advertise the land for lease. Advertisements will call for sealed bids and will not offer preference rights.

§ 162.607 Duration of leases.

Leases granted or approved under this part shall be limited to the minimum duration, commensurate with the purpose of the lease, that will allow

the highest economic return to the owner consistent with prudent management and conservation practices, and except as otherwise provided in this part shall not exceed the number of years provided for in this section. Except for those leases authorized by § 162.604(b)(1) and (2) of this subpart, unless the consideration for the lease is based primarily on percentages of income produced by the land, the lease shall provide for periodic review, at not less than five-year intervals, of the equities involved. Such review shall give consideration to the economic conditions at the time, exclusive of improvement or development required by the contract or the contribution value of such improvements. Any adjustments of rental resulting from such review may be made by the Secretary where he has the authority to grant leases, otherwise the adjustment must be made with the written concurrence of the owners and the approval of the Secretary.

(a) Leases for public, religious, educational, recreational, residential, or business purposes shall not exceed 25 years but may include provisions authorizing a renewal or an extension for one additional term of not to exceed 25 years, except such leases of land on the Hollywood (formerly Dania) Reservation, Fla.; the Navajo Reservation, Ariz., N. Mex., and Utah; the Palm Springs Reservation, Calif.; the Southern Ute Reservation, Colo.; the Fort Mohave Reservation, Calif., Ariz., and Nev.; the Pyramid Lake Reservation, Nev.; the Gila River Reservation, Ariz.; the San Carlos Apache Reservation, Ariz.; the Spokane Reservation, Wash.; the Hualapai Reservation, Ariz.; the Swinomish Reservation, Wash.; the Pueblos of Cochiti, Pojoaque, Tesuque, and Zuni, N. Mex.; and land on the Colorado River Reservation, Ariz., and Calif.; which leases may be made for terms of not to exceed 99 years.

(b) Leases granted by the Secretary pursuant to § 162.601(a)(3) of this subpart shall be for a term of not to exceed two years except as otherwise provided in § 162.605(b) of this subpart.

§ 162.608 Ownership of improvements.

Improvements placed on the leased land shall become the property of the

lessor unless specifically excepted therefrom under the terms of the lease. The lease shall specify the maximum time allowed for removal of any improvements so excepted.

§ 162.609 Unitization for leasing.

Where it appears advantageous to the owners and advantageous to the operation of the land a single lease contract may include more than one parcel of land in separate ownerships, tribal or individual, provided the statutory authorities and other applicable requirements of this part are observed.

§ 162.610 Subleases and assignments.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, a sublease, assignment, amendment or encumbrance of any lease or permit issued under this part may be made only with the approval of the Secretary and the written consent of all parties to such lease or permit, including the surety or sureties.

(b) With the consent of the Secretary, the lease may contain a provision authorizing the lessee to sublease the premises, in whole or in part, without further approval. Subleases so made shall not serve to relieve the sublessor from any liability nor diminish any supervisory authority of the Secretary provided for under the approved lease.

(c) With the consent of the Secretary, the lease may contain provisions authorizing the lessee to encumber his leasehold interest in the premises for the purpose of borrowing capital for the development and improvement of the leased premises. The encumbrance instrument, must be approved by the Secretary. If a sale or foreclosure under the approved encumbrance occurs and the encumbrancer is the purchaser, he may assign the leasehold without the approval of the Secretary or the consent of the other parties to the lease, provided, however, that the assignee accepts and agrees in writing to be bound by all the terms and conditions of the lease. If the purchaser is a party other than the encumbrancer, approval by the Secretary of any assignment will be required, and such purchaser will be bound by the terms of

the lease and will assume in writing all the obligations thereunder.

(d) With the consent of the Secretary, leases of tribal land to individual members of the tribe or to tribal housing authorities may contain provisions permitting the assignment of the lease without further consent or approval where a lending institution or an agency of the United States makes, insures or guarantees a loan to an individual member of the tribe or to a tribal housing authority for the purpose of providing funds for the construction of housing for Indians on the leased premises; provided, the leasehold has been pledged as security for the loan and the lender has obtained the leasehold by foreclosure or otherwise. Such leases may with the consent of the Secretary also contain provisions permitting the lessee to assign the lease without further consent or approval.

§ 162.611 Payment of fees and drainage and irrigation charges.

(a) Any lease covering lands within an irrigation project or drainage district shall require the lessee to pay annually on or before the due date, during the term of the lease and in the amounts determined, all charges assessed against such lands. Such charges shall be in addition to the rental payments prescribed in the lease. All payments of such charges and penalties shall be made to the official designated in the lease to receive such payments.

(b) We will charge an administrative fee each time we approve an agricultural lease, amendment, assignment, sublease, mortgage, or related document. These fees will be paid by the tenant, assignee, or subtenant, to cover our costs in preparing or processing the documents and administering the lease.

(c) Except as provided in paragraph (d) of this section, we will charge administrative fees based on the rent payable under the lease. The fee will be 3% of the annual rent payable, including any percentage or cropshare rent that can be reasonably estimated.

(d) The minimum administrative fee is \$10.00 and the maximum administrative fee is \$500.00, and any administrative fees that have been paid will be non-refundable. However, we may